IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO.164 OF 1991

The State of Maharashtra .. Appellant

versus

Machindra Pandurang Chavan .. Respondent

...

Mr.D.P. Adsule, APP for the State.

Mr.Amarendra Mishra i/b Nitin Pradhan for the respondent.

CORAM : V.M. KANADE, J

DATED : 29th November 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State and the learned counsel appearing on behalf of the respondent.

2. The State is challenging judgement and order passed by Addl.Sessions Judge, Kolhapur in Special case no.9 of 1987 dated 29th November 1990. By the said judgement and order, the trial court acquitted

the accused for the offence punishable u/s.5(1)(d) r/w sec.5(2) of the Prevention of Corruption Act 1947 and sec.161 of the IPC.

3. The brief facts are that respondent accused was working as an Inspector Minimum wages (Collector) in the area of Gadhinglaj Taluka from 17.6.1986. On 8th September 1986, the accused visited the owner of agricultural land, Gut no.27 and found that Aubai who was working as a labourer in that agricultural land was not paid minimum wages. Accordingly, a show cause notice was issued to the owner Hirappa. Thereafter, he demanded bribe of Rs.200/- from the owner of the said agricultural land. He filed a complaint with the Anti Corruption Bureau. The accused was caught red handed accepting bribe of Rs.200/-. The trial Court held that the prosecution had proved the demand and acceptance of Rs.200/- by the accused. However, the trial Court came to the conclusion that the sanction which was obtained by the prosecution was void abnitio and therefore, the prosecution of the accused was vitiated in the absence of a proper sanction.

4. I have perused the judgement and order of the trial Court as also the evidence on record including the sanction which is obtained at Exhibit 38. It is a

settled position in law that this sanction is granted without any application of mind by the sanctioning authority, the entire prosecution is vitiated. The trial Court has relied upon judgements of the Apex Court and the trial Court and after having perused the order of sanction and the evidence on record has come to the conclusion that the sanctioning authority had acted mechanically to complete the formality. The sanctioning authority also has not been examined by the prosecution. I do not see any reason to interfere with the said order particularly after a lapse of almost 15 years from the date of acquittal.

5. There is no reason to interfere with the order passed by the trial Court. The reasoning of the trial Court is neither perverse nor unreasonable.

6. Appeal is therefore, dismissed.

V.M. KANADE, J